Reg No. M. 1175

323

The Mysore Gazette

(PUBLISHED BY AUTHORITY)

Vol. 86] BANGALORE, THURSDAY, MARCH 1, 1951. [No. 9

PART IV

Section I-A

BILLS INTRODUCED IN THE CENTRAL LEGISLATURE WHICH IF ENACTED WILL APPLY TO MYSORE AND THE REPORTS OF SELECT COMMITTEES, IF ANY, THEREON.

NOTIFICATION.

No. L.D. 3189—Legis. 2 50 62 dated Bangalore, 22nd February 1951.

Ordered that the accompanying Code of Criminal Procedure (Amendment) Act, 1951 (I of 1951) published in the *Gazette of India*, Part II, Section 1, dated the 19th February 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

Received Assent on 17th February 1951. 326

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 1951.

(I OF 1951)

AN

ACT

further to amend the Code of Criminal Procedure, 1898.

BE it enacted by Parliament as follows :—

1. *Short title and commencement.*—(*1*) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1951.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Substitution of "India" for "the States" in Act V of 1898.*—In the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code), for the words "the States", wherever they occur, the word "India" shall be substituted.

3. *Amendment of section 1, Act V of 1898.*—In sub-section (*2*) of section 1 of the said Code,—

(*i*) for the words and letter "whole of India except Part B States", the words "whole of India except the States of Jammu and Kashmir and Manipur" shall be substituted;

(*ii*) for the words "Presidency of Fort St. George", the words "State of Madras" shall be substituted; and

(*iii*) for the words "Presidency of Bombay", the words "State of Bombay" shall be substituted.

4. *Amendment of section 4, Act V of 1898.*—In sub-section (*1*) of section 4 of the said Code,—

(*i*) for clause (*j*), the following clauses shall be substituted, namely:—

'(*i*) "High Court", in relation to the Andaman and Nicobar Islands, means the High Court in Calcutta, and, in relation to any other local area, means the highest court of criminal appeal for that area (other than the Supreme Court) or, where no such court is established under any law for the time being in force, such officer as the State Government may appoint in this behalf;

(*j*) "India" means the territories to which this Code extends;';

(*ii*) clause (*tt*) shall be omitted.

5. *Amendment of section 25, Act V of 1898.*—In section 25 of the said Code, the words and letter "except Part B States" shall be omitted.

6. *Amendment of section 30, Act V of 1898.*—In section 30 of the said Code,—

(*i*) for the words "Punjab, Delhi, Oudh, the Central Provinces, Coorg and Assam" the words "Assam, Madhya Pradesh, Punjab, Oudh, Madhya Bharat, Hyderabad, Mysore, Patiala and East Punjab States Union and Rajasthan, in all Part C States" shall be substituted;

(*ii*) for the word and figures "section 29", the words and figures "section 28 or section 29" shall be substituted.

7. *Amendment of section 45, Act V of 1898.*—In clause (*ii*) of sub-section (2) of section 45 of the said Code, for the words "by the Central Government or the Crown Representative in any part of India", the words "by the Central Government outside India" shall be substituted.

8. *Amendment of section 54, Act V of 1898.*—In sub-section (*1*) of section 54 of the said Code,—

(*i*) in clause *sixthly*, the words and figures "declared under the Indian Extradition Act, 1903, to be a unit desertion from which is an extradition offence" shall be omitted;

(*ii*) in clause *seventhly*, the words and figures, "or under the Fugitive Offenders Act, 1881" shall be omitted.

9. *Substitution of new Part E in Chapter VI, Act V of 1898.*—In Chapter VI of the said Code, for Part E consisting of sections 93A, 93B and 93C, the following shall be substituted, namely:—

'*E.—Special Rules regarding Processes in certain cases.*

93A. *Special rules regarding processes in certain cases.*—(*1*) In this section, the expression "internal court" means any court in the territories to which this Code extends, and the expression "external court" means any court established or continued by the authority of the Central Government in exercise of its foreign jurisdiction or any court in the State of Jammu and Kashmir or in the State of Manipur.

(*2*) Where an internal court desires that a summons to, or a warrant for the arrest of, an accused person issued by it shall be executed at any place within the local limits of the jurisdiction of an external court, it may send such summons or warrant, in duplicate, by post or otherwise, to the presiding officer of that court to be served or executed; and where any such summons has been so served, the provisions of section 74 shall apply in relation to such summons as if the presiding officer of the external court to whom it is sent were a magistrate in the territories to which this Code extends.

(*3*) Where an internal court has received for service or execution a summons to, or a warrant for the arrest of, an accused person issued by an external court, it shall cause the same to be served or executed as if it were a summons or warrant received by it from another internal court for service or execution within the local limits of its jurisdiction; and where any such warrant of arrest has been so executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by sections 85 and 86.'

10. *Amendment of section 194, Act V of 1898.*—In sub-section (1) of section 194 of the said Code, for the word "order" the word "law" shall be substituted.

11. *Insertion of new section 197A in Act V of 1898.*—After section 197 of the said Code, the following section shall be inserted, namely :—

'197A. *Prosecution of Rulers of former Indian States.*—(*1*) In this section—

(*a*) "former Indian State" means any such Indian State as the Central Government may, by notification in the Official Gazette, specify for the purposes of this section ;

(*b*) "Ruler", in relation to a former Indian State, means the person who for the time being is recognised by the President as the Ruler of that State for the purposes of the Constitution.

(*2*) No court shall take cognizance of any offence alleged to have been committed by the Ruler of a former Indian State except with the previous sanction of the Central Government.

(*3*) The provisions of sub-section (*2*) of section 197 shall apply in relation to the prosecution and trial of the Ruler of a former Indian State as they apply in relation to the prosecution and trial of a Judge.'

12. *Amendment of section 266, Act V of 1898.*—In section 266 of the said Code, for the words and letter "for a Part A State" the words and letters "for a Part A State or a Part B State" shall be substituted.

13. *Amendment of section 267, Act V of 1898.*—In section 267 of the said Code, for the word "order" the word "law" shall be substituted.

14. *Amendment of section 320, Act V of 1898.*—In clause (*aa*) of section 320 of the said Code, the words and letters "Part A State or Part C" shall be omitted.

15. *Amendment of section 321, Act V of 1898.*—In sub-section (2) of section 321 of the said Code, the words "and if the person is an European or an American, the list shall mention the race to which he belongs" shall be omitted.

16. *Amendment of sections 364 and 365, Act V of 1898.*—In sections 364 and 365 of the said Code, for the words and letter "for a Part A State", the words and letters "for a Part A State or a Part B State" shall be substituted.

17. *Amendment of section 369, Act V of 1898.*—In section 369 of the said Code, the words and letter "for a Part A State" shall be omitted.

18. *Amendment of section 371, Act V of 1898.*—For sub-section (*3*) of section 371 of the said Code, the following sub-section shall be substituted, namely :—

" (*3*) When the accused is sentenced to death by any court and an appeal lies from such judgment as of right, the court shall inform him of the period within which, if he wishes to appeal, his appeal should be preferred."

19. *Amendment of section 411A, Act V of 1898.*—In sub-sections (*1*) and (*2*) of section 411A of the said Code, for the words "in the Letters Patent of any High Court" the words "in the Letters Patent or law by which the High Court is constituted or continued" shall be substituted.

20. *Amendment of section 426, Act V of 1898.*—In sub-section (*3*) of section 426 of the said Code, the words "penal servitude" shall be omitted.

21. *Substitution of new sections for sections 503 to 508A, Act V of 1898.*—For sections 503 to 508A, inclusive, the following sections shall be substituted, namely :—

"503. *When attendance of witness may be dispensed with and commission issued.*—(*1*) Whenever, in the course of any inquiry, trial or other proceeding under this Code, it appears to a High Court, court of session, district magistrate or presidency magistrate that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case would be, unreasonable, such court or magistrate may dispense with such attendance and may issue a commission for the examination of the witness in accordance with the provisions of this Chapter.

(*2*) Whenever, in course of an inquiry, trial or other proceeding under this Code before any magistrate other than a district magistrate or presidency magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such magistrate shall apply to the district magistrate stating the reasons for the application; and the district magistrate may either issue a commission in the manner hereinafter provided or reject the application.

504. *Commission to whom to be issued.*—(*1*) If the witness is within the territories to which this Code extends, the commission shall be directed to the district magistrate or chief presidency magistrate, as the case may be, within the local limits of whose jurisdiction the witness is to be found.

(*2*) If the witness is in India, but in an area to which this Code does not extend, the commission shall be directed to such court or officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(*3*) If the witness is in a country or place outside India and arrangements have been made by the Central Government with the Government of such country or place for taking the evidence of witnesses in relation to criminal matters, the commission shall be issued in such form, directed to such court or officer, and sent to such authority for transmission, as the Central Government may, by notification in the Official Gazette, prescribe in this behalf.

505. *Execution of commissions.*—(*1*) Upon receipt of the commission, the district magistrate, or such magistrate of the first class as he may appoint in this behalf, shall proceed to the place where the witness is, or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant cases under this Code.

(*2*) Upon receipt of the commission, the chief presidency magistrate, or such presidency magistrate subordinate to him as he may appoint in this behalf, may compel the attendance of, and examine, the witness as if he were a witness in a case pending before himself.

506. *Parties may examine witnesses.*—(*1*) The parties to any proceeding under this Code in which a commission is issued may respectively forward any interrogatories in writing which the court or magistrate directing the commission may think relevant to the issue, and it shall be lawful for the magistrate, court or officer to whom the commission is directed, or to whom the duty of executing it is delegated, to examine the witness upon such interrogatories.

(*2*) Any such party may appear before such magistrate, court or officer by pleader, or if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

507. *Return of commission.*—(*1*) After any commission issued under section 503 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the court or magistrate issuing the commission; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

(*2*) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Indian Evidence Act, 1872 (I of 1872), may also be received in evidence at any subsequent stage of the case before another court.

508. *Adjournment of proceeding.*—In every case in which a commission is issued under section 503, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

508A. *Execution of foreign commissions.*—(*1*) The provisions of section 505 and so much of section 506 and section 507 as relates to the execution of a commission and its return shall apply in respect of commissions issued by any of the courts, judges or magistrates hereinafter mentioned as they apply to commissions issued under section 503.

(*2*) The courts, judges and magistrates referred to in sub-section (*1*) are—

"(*a*) any such court, judge or magistrate exercising jurisdiction within an area in India to which this Code does not extend, as the Central Government may, by notification in the Official Gazette, specify in this behalf; and

(*b*) any court, judge or magistrate exercising jurisdiction in any such country or place outside India as the Central Government may,

by notification in the Official Gazette, specify in this behalf, and having authority, under the law in force in that country or place, to issue commissions for the examination of witnesses in relation to criminal matters."

22. *Amendment of section 554, Act V of 1898.*—In sub-section (*1*) of section 554 of the said Code, for the words and letter "for a Part A State", the words and letters "for a Part A State or a Part B State" shall be substituted.

23. *Amendment of section 558, Act V of 1898.*—In section 558 of the said Code, after the words and letter "Part A State" the words and letter "or a Part B State" shall be substituted.

24. *Amendment of Schedule II, Act V of 1898.*—In Schedule II to the said Code, under the heading "Offences against other laws," in the fifth column relating to the second item, after the words "Except in cases" the words "not relating to fire-arms" shall be inserted.

25. *Repeals and savings.*—(*1*) If immediately before the day on which this Act comes into force in a Part B State there is in force in that State any law which corresponds to the said code, such corresponding law shall on that day stand repealed but not so as to restore any jurisdiction or form of procedure not then existing or followed or to render unlawful the continuance of any confinement which is then lawful.

(*2*) All notifications published, proclamations issued, powers conferred, forms prescribed, local limits defined, sentences passed and orders, rules and appointments made, under any corresponding law hereby repealed shall be deemed to have been respectively published, issued, conferred, prescribed, defined, passed and made under the corresponding provision of the said Code.

(*3*) The provisions of the said Code shall apply to all proceedings instituted after the coming into force of the said Code in any Part B State and, so far as may be, to all cases pending in any criminal court in that State when the said Code comes into force therein.

(*4*) Where under any law in force in a Part B State immediately before the commencement of this Act, a sessions judge has been empowered to exercise all or any of the powers of a district magistrate, then, notwithstanding anything contained in sub-section (*1*), that law shall, in so far as it purports to confer such powers on any sessions judge, continue to have effect as if enacted in the said Code, and nothing in the said Code shall be deemed to transfer to any district magistrate in that State any of the powers so exercisable by a sessions judge.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.